IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.300 OF 2005

Shri.Suryakant Sitaram Dhotre ...Petitioner
V/s.
The Chief Officer,
Satara Municipal Council & Anr. ...Respondents

Ms.Aarti Bhide for Petitioner.
Mr.P.B. Shah for Respondent No.1.
Mr.Y.S. Shinde APP for State.

CORAM : V.M. KANADE, J.

DATED : 17th AUGUST, 2007.

P.C:-

1. Heard learned counsel for the Petitioner, learned counsel for Respondent No.1 and learned APP for the State.

2. The Petitioner takes exception to the order passed by the Respondent No.1 whereby assessment levied on the property was increased to Rs.7500/- from Rs.3600/- The Petitioner challenged the said order by filing an appeal before the II Jt. J.M.F.C, Satara. The Magistrate partly allowed the appeal and reduced the Annual Letting Value to Rs.6,000/-. Being aggrieved by the aforesaid order, the Petitioner preferred a revision application before IV Additional

Sessions Judge, Satara. Sessions Court also dismissed the revision application. Being aggrieved by the aforesaid two orders, the Petitioner has filed this writ petition under Article 226 and 227 of Constitution of India.

3. The learned counsel for the Petitioner submitted that lower authorities had not taken into consideration grievance of the Petitioner that in respect of all other premises which were situated near the same area, tax assessment on the basis of the Annual Letting Value had not been increased and only in the case of Petitioner's premises, said increase had been made. It was further submitted that the Council could not have increased the tax beyond statutory standard rent. It was further submitted that Council had not taken into consideration standard rent while deciding the Annual Letting Value of the suit property.

4. Learned counsel for the Respondents invited my attention to the order passed by the II Jt. J.M.F.C, Satara as also order passed by the Sessions Court. He submitted that all these questions were considered and revision application had been dismissed by passing a

reasoned order.

5. In the present case, it is an admitted position that the Petitioner had given four rooms out of eight rooms which were in his occupation, on rent. The Petitioner was paid Rs.300/- per month as rent for each room and as a result he was receiving 1200/- per month. The tenants had not filed any application for fixing standard rent. It itself indicates that the they have no grievance about the rent which was charged by the Petitioner/Landlord. Therefore, merely because no application was filed for standard rent, it cannot be said that the Council is not competent to take into consideration rent which is actually charged by the Petitioner. It is a well settled position in law that for the purpose of ascertaining Annual Letting Value of the property, among other things, it has to be seen income which is derived from the said property and that is one of the factors which has to be taken into consideration for the purpose of fixing the Annual Letting Value. Therefore, submissions made by the learned counsel for the Petitioner, cannot be accepted.

6. So far as the contention of the Petitioner that adjoining premises were charged less, and there was no increase in the Annual

Letting Value in respect of those premises and therefore, the Council was not justified in increasing taxes in respect of his premises, also cannot be accepted. The Apex Court in the case of **Motichand Hirachand & Ors. V/s. Bombay Municipal Corporation reported in AIR 1968 SC 441** has laid down the manner in which the Annual Letting Value has to be calculated. It has been held that one of the criteria which has to be considered is income which is generated or which is likely to be generated by the landlord from the said premises. In the present case, admittedly, out of eight rooms which were in occupation of the Petitioner, he had given four rooms on rent. As a result, the Annual Letting Value of the said property had increased and accordingly, the Council was justified in increasing taxes which were levied on the said property.

7. Apart from them, it is a well settled position that the documentary evidence which is brought on record by the Council clearly shows that the premises is situated in the heart of the City and there is a market, hospital, school and college in the nearby vicinity of the said premises. Further, S.T. Bus Stop is also situated close to the premises. The Council provides drainage facility and other essential

facilities to these premises. Therefore, submissions made by the learned counsel for the Petitioner cannot be accepted. In my view, there is no infirmity in the orders passed by the lower authorities. Petition is dismissed accordingly.

V.M. KANADE, J.